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**IN THE UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF THE NORTHERN MARIANA ISLANDS**

ANGELITO TRINIDAD, et al,

Plaintiffs,

vs.

JOHN S. PANGELINAN, et al.,

Defendants.

CIVIL ACTION NO. 97-0073

**PLAINTIFFS' COMBINED
MOTION TO LIFT STAY
ORDER AND TO CONFIRM
SALE OF LOT NO.
E.A. 222**

Date:

Time:

Judge: Hon. David A. Wiseman

Plaintiffs through counsel now move this court to lift the stay on the sale of
Lot No. E.A. 222,¹ and to confirm the sale of real property sold in fee simple at
auction on July 28, 2006, to Rufo T. Mafnas.

In support of their Combined Motion to Lift Stay Order and to Confirm Sale
of Lot No. E.A. 222, Plaintiffs state as follows:

¹ See Notice of Order, No. 566 (Aug 15, 2006).

1 1. On March 20, 2000, Plaintiffs obtained a judgment in their favor in the
2 amount of \$205,787.34, which began accruing 6.197 percent interest per year from
3 the date of judgment. The court also awarded attorney's fees of \$70,200.00 and
4 costs of \$3,375.20, totaling \$279,362.54.
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6 2. The court has also awarded the Plaintiffs additional costs in the form of
7 sanctions against Defendant as follows:
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9 (a) a total of 889.84 (\$866.66 for attorney's fees and costs of \$23.18) for
10 preparing their order to show cause awarded on July 30, 2001.
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12 (b) total fees and costs of \$4,848.85 incurred in filing Plaintiff's motion for a
13 temporary restraining order and preliminary injunction awarded on September 6,
14 2001.
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16 (c) total fees and costs of \$545 for defending against Defendants' frivolous
17 motion for accounting awarded on January 8, 2004.
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19 (d) additional attorney's fees and costs of \$214 for defendants failure to
20 appear for deposition awarded on April 1, 2004.
21

22 (e) on October 23, 2006, the court awarded additional attorney's fees and
23 costs as a sanction pursuant to its Order Finding John S. Pangelinan in Contempt of
24 Court. The determination of the sum is pending court review.
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26 3. In an effort to collect upon the judgment in July 2001, Plaintiffs
27 successfully levied execution and purchased four parcels of land belonging to
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1 defendants as fee simple determinable estates for a period of 55 year for \$210,000
2 in partial fulfillment of the judgment. *See* Order Confirming Sale of Fee Simple
3 Determinable Estates in Four Parcels of Real Property, No. 293 (July 13, 2001).
4 This still left a deficiency judgment which has been accruing interest of 6.197%
5 from July 1, 2001, in addition to attorney's fees, costs and sanctions imposed on
6 defendants.
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9 4. To satisfy and pay in full the remaining balance on the merit judgment,
10 interest, attorney's fees, costs and sanctions, the court granted the Plaintiffs'
11 motion for writ of execution on Lot No. E.A. 222 owned by the defendants. *See*
12 Amended Order Granting Writ of Execution (March 8, 2006).
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15 5. On February 22, 2006, the court authorized Roy Alexander to levy
16 execution upon Lot No. E.A. 222 to satisfy the balance on the judgment, accrued
17 interest, and additional costs and sanctions by this court, after making demand of
18 the defendants to pay the execution or exhibit sufficient property subject to
19 execution. *See* Order Authorizing Roy Alexander to Levy Execution (February 22,
20 2006).
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23 6. On March 21, 2006, Mr. Alexander's demand was served on the
24 Defendants notifying them that they could either pay the remaining balance of the
25 judgment, accrued interest and attorney's fees, costs, and expenses totaling
26 \$97,737.64, or they could exhibit sufficient property subject to execution within 15
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1 days from the date of service. *See* Demand Pursuant to 7 CMC § 4204(a); Notice
2 of Levy on Lot No. E.A. 222 attached as Ex. “A.” Otherwise, execution would be
3 levied on Lot No. E.A. 222 and judicial sale would proceed.
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5 7. Defendants failed to respond to Mr. Alexander within the 15-day period
6 which ended on April 5, 2006. *See* Report on Notice of Sale for June 2, 2006.
7 Consequently, Mr. Alexander scheduled the judicial sale of said lot for June 2,
8 2006 and notices were published accordingly. *Id.* The June 2, 2006 sale was
9 cancelled, however, due to Mr. Alexander’s concerns about safety stemming from
10 defendant John Pangelinan’s letter to the editor which was published in the June 2,
11 2006 issue of the MARIANAS VARIETY. *Id.*
12

13 8. On June 29, 2006, the court entered a Temporary Restraining Order
14 against defendant John Pangelinan and his agents, among others, directing
15 defendant Pangelinan to refrain from impeding or interfering with the levy on and
16 judicial sale of Lot No. E.A. 222, acquisition of property, subsequent occupancy,
17 transfer, quiet enjoyment or other use pending the final hearing and determination
18 of Plaintiffs’ request for permanent injunction. Order Granting Motion for
19 Temporary Restraining Order (June 29, 2006) (“June 29, 2006 TRO”). The court
20 later issued a Permanent Injunction against John Pangelinan on August 2, 2006.
21 *See* Order Granting Motion for Permanent Injunction, No. 553 (Aug. 2, 2006).
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23 9. The court also ordered that, subject to confirmation and approval of the
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1 sale of Lot No. E.A. 222, defendant John S. Pangelinan and his agents, among
2 others, leave the premises peacefully without provoking a breach of the peace or
3 interfering with the use and quiet enjoyment of the premises. *See* June 29, 2006
4 TRO at 4-5.
5

6 10. After the issuance of the TRO and the court having denied defendants
7 subsequent motion to substitute property, Mr. Alexander subsequently re-issued a
8 revised Notice of Sale scheduled for July 28, 2006. *See* Report and Account of
9 Sale by R. Alexander attached herewith as Ex. "B" (Alexander's Report").
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12 11. This Notice of Sale was published both in the MARIANAS VARIETY (July
13 21 and 25, 2006) and the SAIPAN TRIBUNE (July 20 and 24, 2006). *See id* and R.
14 Alexander's Affidavit of Compliance with Publication and Posting Requirements
15 attached as Ex. "C".
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17 12. Pursuant to the second Notice of Sale, Roy Alexander appeared at the
18 offices of Alexander Realty, San Jose, Saipan, at 10:30 a.m., on July 28, 2006, and
19 did offer to sell, at public auction, to the highest bidder all of the right, title, and
20 interest of Defendants John S. Pangelinan, Merced B. Pangelinan, and Papa's Ltd.,
21 Inc., in and to the real property designated therein. *See* Alexander's Report.
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24 13. Mr. Alexander's Report states that only two bids were made for the
25 purchase of said property: (1) Plaintiffs' bid in the form of a set-off bid for the
26 minimum bid sum of \$98,101.14 and, (2) Rufo T. Mafnas's bid of \$100,000.
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1 14. Rufo T. Mafnas's bid of \$100,000 being the highest, Mr. Alexander
2 accepted his bid. Mr Mafnas's representative, Olivia D. Aniñon, made the 10%
3 deposit of \$10,000, which was delivered on August 1, 2006, to the office of the
4 Clerk of Court. The remaining balance of \$90,000, was to be paid in 30 days
5 pending the court's confirmation of the sale.
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8 15. However, on August 14, 2006, the court stayed the sale as information
9 surfaced that defendant John S. Pangelinan had recorded deeds on July 27, 2006,
10 conveying his interest in Lot No. E.A. 222 to his sons Christopher and Carlo. *See*
11 Notice of Order, No. 566 (Aug. 15, 2006).
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13 16. The court has declared those deeds null and void in its Order Holding
14 John S. Pangelinan in Civil Contempt of Court, No. 582 (October 23, 2006),
15 removing the cloud that those deeds may have cast on the title of Lot No. E.A. 222,
16 and taking away an impediment to the confirmation of the sale of the parcel to Mr.
17 Mafnas.
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20 17. Mr. Mafnas's winning bid of \$100,000 would fully pay and satisfy the
21 remaining deficiency judgment including accrued interest, attorney's fees and
22 costs, sanctions including the sum awarded in the October 23, 2006 Order, and Mr.
23 Alexander's costs and expenses in levying execution on the lot.
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25 18. As of March 15, 2006, Defendants owed a balance on the merit
26 judgment, accrued interest, attorney's fees, costs, and sanctions totaling
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1 \$97,737.64. *See* Demand Pursuant to 7 CMC § 4204(a); Notice of Levy on Lot
2 No. E.A. 222. Costs for the services of Roy Alexander is \$1,930.50. *See*
3 Alexander's Report.
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5 19. After the foregoing sums are paid, any funds remaining should be paid
6 to the defendants.
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8 WHEREFORE, pursuant to sale of the property based on the bid made by
9 Mr. Mafnas, and the court's Order Holding John S. Pangelinan in Civil Contempt
10 of Court, the Plaintiffs pray:
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12 1. That the stay on the sale of Lot No. E.A. 222 to Rufo T. Mafnas should
13 be lifted.
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15 2. Further that this court confirm and approve the sale accepted by Roy
16 Alexander as described herein, order Mr. Alexander to execute the Certificate of
17 Sale submitted herewith, authorize and order Mr. Alexander to execute and record
18 with the CNMI Recorder's Office the Quitclaim Deed transferring in fee simple
19 Lot No. E.A. 222 to Rufo T. Mafnas.
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21 3. That no later than 30 days after execution of the Quitclaim Deed, Mr.
22 Mafnas shall be directed to pay the remaining balance of \$90,000, to Roy
23 Alexander who shall immediately deposit said sum with the Clerk of Court. The
24 court may provide other instructions on the handling of the proceeds from the sale.
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27 4. That upon deposit to the Clerk of Court, the Clerk of Court shall be
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1 authorized to make the following payments:

2 a. the sum of \$97,737.64, to the Plaintiffs to pay the balance on
3 the merit judgment, accrued interest, attorney's fees, costs, and
4 sanctions (excluding the sanctions awarded in the court's October 23,
5 2006 Order).
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7 b. the sum of \$1,930.50 to Roy Alexander for services rendered
8 and costs incurred as the Levying Officer.
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10 Further, that the Clerk be authorized to pay the sum of the sanction awarded
11 by the court in its October 23, 2006 Order, upon receipt of the court's order
12 determining said sum. Any balance remaining after the foregoing sums have been
13 paid shall be turned over to the defendants.
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16 5. That upon execution of the Quitclaim Deed, defendants John S.
17 Pangelinan, Merced Pangelinan, their immediate family including children and
18 other relatives, their officers, agents, tenants-at-will, employees, successors, and
19 attorneys, and all those in active concert or participation with them or on their
20 behalf shall be ordered to leave the premises and property peacefully without
21 provoking a breach of the peace or interfering with the use and quiet enjoyment of
22 the premises.
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25 6. That upon notice by Roy Alexander of the execution of the Quitclaim
26 Deed, the United States Marshal's office shall direct and supervise the departure,
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1 or removal from the premises, of the defendants John S. Pangelinan, Merced
2 Pangelinan, their immediate family including children and other relatives, their
3 officers, agents, tenants-at-will, employees, successors, and attorneys, and all those
4 in active concert or participation with them or on their behalf. After securing the
5 premises, the United States Marshal's office shall tender the property to Roy
6 Alexander who in turn shall surrender the premises to Mr. Mafnas.
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9 7. Defendants John S. Pangelinan, Merced Pangelinan, their immediate
10 family including children and other relatives, their officers, agents, tenants-at-will,
11 employees, successors, and attorneys, and all those in active concert or
12 participation with them or on their behalf, shall not commit waste nor engage in
13 conduct to destroy the property.
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17 Respectfully submitted this 13th day of November 2006.
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20 /s/
21 LILLIAN A. TENORIO
22 Attorney for Plaintiffs
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